

UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION

UNITED STATES OF AMERICA)	
)	
v.)	NO. 3:16-00162
)	JUDGE TRAUGER
JAMES McWHORTER)	

DEFENDANT’S SUPPLEMENTAL SENTENCING MEMORANDUM

Defendant James McWhorter files this supplement in order to cite a proposed amendment to the Sentencing Guidelines that endorses the kind of variance he has requested.

Here the guidelines recommend a sentence of 12-18 months, putting McWhorter in Zone C. Presently, the guidelines recommend that courts can impose a split sentence for offenders falling in Zone C – *i.e.*, the sentence can be split between jail and a halfway house or home confinement. Meanwhile, for offenders falling in Zone B, the guidelines recommend that courts can impose a sentence that involves only a term in a halfway house or home confinement. McWhorter has requested a downward variance by asking the Court to impose a Zone B sentence instead of a Zone C sentence.

On December 9, the Sentencing Commission issued its proposed amendments for the coming year. Its first proposal is to “expand[] Zone B by consolidating Zones B and C.” (Ex. A, U.S. Sentencing Commission, Proposed Amendments to the Sentencing Guidelines (Preliminary), at 3 (Dec. 9, 2016) (excerpt only). That amendment would, in effect, simply eradicate Zone C and its advice regarding split sentences, and it would recommend Zone B sentences instead. The proposed amendment “is a result of the Commission’s continued study of approaches to encourage the use of alternatives to incarceration.” *Id.* at 2.

The proposed amendment endorses precisely the kind of sentence that McWhorter is seeking: a Zone B sentence instead of a Zone C sentence. He asks that the Court take into consideration – along with his other arguments as to the reasonableness of the proposed sentence – the fact that the Sentencing Commission has proposed institutionalizing the type of variance that he is seeking.

Respectfully submitted,

s/ Michael C. Holley
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CERTIFICATE OF SERVICE

I hereby certify that on December 13, 2016, I electronically filed the foregoing Defendant's Supplemental Sentencing Memorandum with the U.S. District Court Clerk by using the CM/ECF system, which will send a Notice of Electronic Filing to the following: S. Carran Daughtrey, Assistant United States Attorney, 110 Ninth Avenue South, Suite A961, Nashville, TN 37203.

s/ Michael C. Holley
MICHAEL C. HOLLEY